

**AGENDA FOR THE MEETING
DUNSMUIR CITY COUNCIL
Held via ZOOM
JUNE 18th, 2020
CLOSED SESSION: None
REGULAR SESSION: 6:00 pm**

Join Zoom Meeting
<https://us02web.zoom.us/j/87846121896>
Meeting ID: 878 4612 1896
One tap mobile
+12532158782,,87846121896# US (Tacoma)
+Dial by your location
+1 669 900 6833 US (San Jose)

As a courtesy, please mute your microphone when you are not speaking.

1. **CALL TO ORDER AND FLAG SALUTE**
2. **ROLL CALL**
3. **SPECIAL PRESENTATIONS AND ANNOUNCEMENTS**
4. **PUBLIC COMMENT**

Regular City Council meetings are posted on the City's website to keep City residents informed of City Council actions and deliberations that affect the community. Meetings are scheduled to be televised on the 1st and 3rd Thursday of each month. Meetings that take place on dates other than the 1st and 3rd Thursday will not be televised.

This time is set aside for citizens to address the City Council on matters listed on the Consent Agenda as well as other items **not** included on the Regular Agenda. If your comments concern an item noted on the Regular Agenda, please address the Council when that item is open for public comment. **Each speaker is allocated three (3) minutes to speak. Speakers may not cede their time to another speaker.** Comments should be limited to matters within the jurisdiction of the City. Speaker forms are available from the City Clerk, 5915 Dunsmuir Ave, Dunsmuir, on the City's website, or on the podium. You may also submit an email to adminasst@ci.dunsmuir.ca.us to be read during public comment. The City Council can only take action on matters that are on the Agenda, but may place matters brought to their attention at this meeting on a future Agenda for consideration. If you have documents to present to members of the City Council, please provide a minimum of seven (7) copies.

5. **COUNCIL AND STAFF COMMENTS**
6. **COMMITTEE REPORTS**
7. **APPROVAL OF MINUTES - June 4th 2020**
8. **CONSENT AGENDA:**

- A. Approval of Check Register: 5/30/2020-6/12/2020
- B. Resolution in support of appointing Wendy Perkins as Deputy City Clerk
- C. Resolution in support of extending solid waste contract with Clemens while negotiations continue on a permanent contract

- D. Introduction and second reading of an ordinance establishing a code enforcement administrative and appeals process

9. PUBLIC HEARING: None

Public Hearing Protocol:

- a. Mayor will describe the purpose of the Public Hearing.
- b. City Staff will provide the Staff Report.
- c. City Staff will respond to questions from the City Council.
- d. Mayor will open the Public Hearing.
- e. Citizens wanting to comment will come to the podium, provide the City Clerk with their name and address and provide their comments.
- f. Mayor will close the Public Hearing.

10. OLD BUSINESS - None

11. NEW BUSINESS

- A. A resolution requesting the County Elections Clerk to place two measures on the Nov. 7 ballot to enact a 1.5 cent sales tax. There are two Exhibits related to the resolution:
 - 1. Ex “A” to the resolution is the general tax. This requires majority vote for adoption and the revenues are for general City purposes.
 - 2. Ex “B” is the special tax. This requires two-thirds vote and the revenues are exclusively for police and fire protection. The ordinance provides that if a general tax is adopted, the special tax will be void.
- B. A resolution authorizing named people to submit ballot arguments in support of the measures and rebuttal. The draft resolution has spaces for two names but five may be authorized. If three Council members are named, the Brown Act would include notice requirements.
- C. Presentation on budget recommendations made by the Finance Committee
- D. Authorize staff to use preliminary budget 20-22 in accounting system effective 7/1/20

12. FUTURE AGENDA ITEMS

Future Agenda Items are topics brought to the City Council for review and/or action. All dates refer to first introductions and can be altered due to time and priority levels.

13. ADJOURNMENT

Copies of this agenda were posted at City Hall, Dunsmuir City Library, Dunsmuir Park and Recreation District Office and at the Post Office on or before 6:00 PM June 15th, 2020

The City of Dunsmuir does not discriminate on the basis of race, color, national origin, religion, age, gender, sexual orientation, disability or any other legally protected classes in employment or provision of services. Persons who need accommodations for a disability at a public meeting may call City Hall at (530) 235-4822 for assistance. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to accommodate participation in the meeting.

CERTIFICATION

This is the official Dunsmuir City Council Agenda, created and posted in accordance with the Dunsmuir City Council Protocols.



Wendy Perkins, Deputy City Clerk

6/15/2020

Date

**DUNSMUIR CITY COUNCIL
MINUTES
JUNE 4TH, 2020**

1. CALL TO ORDER AND FLAG SALUTE

Meeting was called to order at pm by Mayor Lucchesi @ 6:03 p.m.

2. ROLL CALL

Councilmembers present: Arth, Bryan, Deutsch, Keisler, Lucchesi

Staff present: City Manager Juhasz, Finance Director Michaelson, Deputy City Clerk Perkins, Code Enforcement Officer Allen

3. SPECIAL PRESENTATIONS AND ANNOUNCEMENTS - None

4. PUBLIC COMMENT Tim Holt – He attended last Finance Committee meeting, he noticed agenda for Monday’s meeting for June 8th did not include grants for community organizations. He wants to know when we will have decision on community grants.

5. COUNCIL AND STAFF COMMENTS

Council: Bryan spoke about the Finance Committee meetings; they have met 3 times since last meeting of council. They are working on new budget. Bryan said they will be covering the community grants June 8th, so the agenda will be updated to reflect that. Deutsch – Kudos to the CDBG Grants. Chamber and Community resource center. Wants everyone in town to wear a mask, lives can be saved.

Keisler- wanted to thank those that helped with the cemetery clean up.

CM – Juhasz mentions Sheriff Lopey’s statement on George Floyd’s death. Hedge Creek falls is open. Expansion of CDBG funds, including libraries.

Arth – Visioning survey is important for community grants. Do we need to send out an updated survey as we work on new budget? Look at waterfall at Community Garden.

There will be a dedication ceremony tomorrow at 11.

Mayor Lucchesi – mentions pure sadness of what is going on in the world, inequalities in the policing system. Working on agreements with UP on trails to Mossbrae Falls.

Staff: FD Michaelson – reminds folks they can get extra garbage stickers @ City Hall.

6. COMMITTEE REPORTS

- A.** DPAC – Lynda Scheben – They met last week. Juhasz, and CP Tinsman took them through the finalization of hazard mitigation plan. She is working with Chief Padilla and Fire Safe Council of Siskiyou County to get a USFS grant for fuel reduction to increase evacuation routes out of Dunsmuir. Grant is for about \$700-800K.
- B.** Public Safety Committee met – Keisler and Bryan attended. Substation, officers are choosing to use Dunsmuir facilities while they are doing outside of area paperwork, that is ok with us because it means shorter response times.
- C.** Finance Committee Report –

Bryan – If we keep our \$55K Community Funding promotions, we’re looking at \$125K deficit. Wants to include depreciation in budget, which will mean an even larger looking deficit.
1.5% is the max sales tax increase. Recco is that we do the max. Do we do a dedicated tax for things like increase in law enforcement?
Requires 2/3rds vote vs a general tax with same rate with idea that the money will go to public safety.
For community funding it is important not to promise more than we can give.

7. APPROVAL OF MINUTES:

Motion by Keisler to approve the minutes of May 21st and seconded by Bryan

Roll Call Vote AYES: Arth, Bryan, Deutsch, Keisler, Lucchesi
 NOES: None
 ABSENT: None
 ABSTAIN:

5-0-0-0

8. CONSENT AGENDA:

A. Resolution in support of election consolidation for the election of two (2) City Councilors and one (1) treasurer.

B. Approval of new DPAC Goals and Objectives

C. Local Early Action Planning Grant – 2022 General Plan Update

D. Approval of the Check Register from 3/21-5/29/2020

Motion to approve by Keisler 2nd by Deutsch

Roll call vote: AYES: Arth, Bryan, Deutsch, Keisler, Lucchesi
 NOES: None
 ABSENT: None
 ABSTAIN:

5-0-0-0

9. PUBLIC HEARINGS- None

10. OLD BUSINESS

A. Decision on whether to ban fireworks

A letter from Chief Padilla was read . His opinion is that City Council should ban fireworks in The City of Dunsmuir.

Juhasz- Recommends also to ban fireworks.

Public Comment:

Lauri Barnes-Harley – Urges us not to ban fireworks. She spends a lot of money on them each year which is used as fundraiser for various community groups. She uses fireworks safely. If areas just outside of our limits are using them, she doesn’t see how it makes a difference.

Lynda Scheben – Reminds us of Paradise fires. 85 deaths. We do not want to risk this.

Deutsch – When you look at our geography, we are upper part of Shasta Forest. We can be destroyed by a fire moving through our canyon. Proposes a 4th of July Celebration with Louie Dewey at the ballpark, with a City Approved fireworks display.

Keisler – Concurs that we may need a one year break from fireworks, but likes the idea of a Louie Dewey / Barnes-Harley display.

Keisler - mentions that this can no longer be a high school fundraiser.

Arth – Wants to support the ban

Lucchesi – Also supports the ban.

Motion to ban fireworks within the City Limits by Keisler. Motion to also make a 1 year ban on sales and use of fireworks in the County and that we send a letter to Board of Supervisors to do so.

2nded Deutsch

Roll call vote: AYES: Arth, Bryan, Deutsch, Keisler, Lucchesi
NOES: None
ABSENT: None
ABSTAIN:

5-0-0-0

11. NEW BUSINESS

A. Discussion regarding enforcement of distressed building ordinance.

CM- Juhasz – Addresses Arth’s comment that we cannot enforce distressed buildings ordinance to one particular building owner “Mr. X”. We would be unfairly penalizing people that are trying to get together a new business. Will take direction from council. Proposes that we start sending letters to those with vacant and distressed buildings.

Arth – Where did City Manager come up with the idea that we are targeting anyone? He expects that we use the code enforcement officer and take care of vacant and abandoned buildings no matter who owns them.

Public Comment:

Tim Holt – Why can’t the owners of the distressed buildings (peeling paint, crumbling plaster) be told that they can fix up their buildings in the mean time? (before we come down on them). We also want to ask owners to get tenants/businesses in the buildings.

Staff Comment:

Juhasz – This ordinance was the key to getting our city back on track.

Deutsch – If we were to limit this to a specific time frame (Phase 3 reopening) is open to suggestions to how we tailor this issue to Covid-19.

Council Comments:

Bryan – He appreciates the covid-19 shutdown and that it would be difficult to enforce these things. Feels phase 3 is the right time frame for it.

Lucchesi- Asks if he has a list of the distressed properties.

CM Juhasz – Replies he has had it for a month.

Keisler – We need to do something

Arth – City has shied away from enforcing its own laws for too long. The reason the California Theatre was repaired is because we took the property owner to court.

Lucchesi – Is supportive of the plan that the CM has put in place, sending letters to distressed property owners. Mention business loans/grants to these folks, to get resources. Motion to begin code enforcement of distressed properties by Lucchesi. 2nd by Deutsch.

Lucchesi- Makes motion to begin façade enforcement now and to start sending letters of violation now. Come back in a month and revisit during a stage 3, the enforcement process.

Lucchesi – Makes a motion to begin enforcement of the vacant building ordinance at stage 3, send letters to those on the distressed building registry (prior to stage 3) identifying that they are at risk of being fined under the distressed building ordinance.

Mention resources for business loans. Begin façade improvement enforcement immediately. Revisit in a month if we are not at Stage 3. 2nd by Deutsch.

Roll call vote: AYES: Arth, Bryan, Deutsch, Keisler, Lucchesi
NOES: None
ABSENT: None
ABSTAIN:

5-0-0-0

B. Introduction and first reading of an ordinance establishing a code enforcement administrative and appeals process.

CM Juhasz – We haven't had administrative review process (appeal a ticket). We have requested of Sheriff's Lopez staff be available every other Thursday in their offices when those citation holders want to appeal, they will be heard then. Clarifies this will be for parking tickets and nuisance properties.

Public Comment: None

Arth made a motion to approve the 1st reading of ordinance and move to 2nd reading. 2nd by Deustch.

Roll call vote: AYES: Arth, Bryan, Deutsch, Keisler, Lucchesi
NOES: None
ABSENT: None
ABSTAIN:

5-0-0-0

C. Introduction and first reading of an ordinance establishing a new administrative fine schedule.

Lucchesi – We are not approving the exact fine numbers today, just establishing a fine schedule process.

CM Juhasz – it is a slight increase in some of our fines but is in line with what Weed has adopted.

Public Comment – none

Keisler – Motion to approve the 1st reading of ordinance and move the ordinance to a 2nd reading.

2nded by Arth.

Roll call vote: AYES: Arth, Bryan, Deutsch, Keisler, Lucchesi
NOES: None
ABSENT: None
ABSTAIN:

5-0-0-0

12. FUTURE AGENDA ITEMS

- Inclusion of depreciation within our budget.
- Introduction and 2nd reading of an ordinance establishing a code enforcement administrative and appeals process.
- 1.5 % TUT increase on ballot. 1 is special tax, 1 is general tax. Just one will be adopted.
- Code enforcement tweaks so there are not loopholes.

- Wants Nathaniel Woods CUP application reviewed.

13. ADJOURNMENT

Motion to Adjourn by Kesler 2nd by Arth

Consensus by the City Council to adjourn the meeting at 7:55 p.m.

Mayor Lucchesi

ATTEST:

Wendy Perkins, Deputy City Clerk

Date

Check Register Report

Check register

Date: 06/12/2020

Time: 9:48 am

Page: 1

City of Dunsmuir

BANK: U.S. BANK

| Check Number | Check Date | Status | Void/Stop Date | Reconcile Date | Vendor Number | Vendor Name | Check Description | Amount |
|-------------------------|------------|---------|----------------|----------------|---------------|-------------------------------|--------------------------------|----------|
| U.S. BANK Checks | | | | | | | | |
| 53900 | 06/05/2020 | Printed | | | 2635 | BASIC LABORATORY, INC. | Drinking water weekly | 590.60 |
| 53901 | 06/05/2020 | Printed | | | 10360 | C. PISTORIUS REFRIGERATION | Ice machine cleaning | 200.00 |
| 53902 | 06/05/2020 | Printed | | | 9820 | CITY OF DUNSMUIR | water deposit act#26 Hicks, B. | 42.50 |
| 53903 | 06/05/2020 | Printed | | | 9972 | COWLEY D & L, INC. | awuaneat weed killer for WWTP | 407.55 |
| 53904 | 06/05/2020 | Printed | | | 9850 | DUNSMUIR TRUE VALUE | Duns Fire supplies May2020 | 7.75 |
| 53905 | 06/05/2020 | Printed | | | 9850 | DUNSMUIR TRUE VALUE | May2020 supply | 176.93 |
| 53906 | 06/05/2020 | Printed | | | 5219 | FERGUSON ENTERPRISES INC,1423 | 10"bands, stl rep clmp | 376.27 |
| 53907 | 06/05/2020 | Printed | | | 17013 | GOLD NUGGET PRINTING CO. | business card Allen | 125.42 |
| 53908 | 06/05/2020 | Printed | | | 10657 | GRIMM, GREG | Grade III Operater May2020 | 2,560.00 |
| 53909 | 06/05/2020 | Printed | | | 10661 | HICKS, BRIAN | water deposit less June bill | 137.50 |
| 53910 | 06/05/2020 | Printed | | | 10456 | J & J PUMPS INC. | river ave lift station service | 175.00 |
| 53911 | 06/05/2020 | Printed | | | 7260 | L.N. CURTIS AND SONS, INC | flashlight | 77.74 |
| 53912 | 06/05/2020 | Printed | | | 9870 | MT SHASTA AREA NEWSPAPER | 18667 Pub. Notice DOG/SWS | 273.76 |
| 53913 | 06/05/2020 | Printed | | | 37115 | OPERATING ENGINEER'S PUB | payroll check diff from bill | 101.84 |
| 53914 | 06/05/2020 | Printed | | | 39062 | PATRICK & CO | 20/21 Dog tags | 242.44 |
| 53915 | 06/05/2020 | Printed | | | 47520 | SHASTA AUTO SUPPLY | presto pin utility trailer | 4.79 |
| 53916 | 06/05/2020 | Printed | | | 47676 | SMITH BUILDING SERVICES, Lp | fan check/building May20 | 1,619.79 |
| 53917 | 06/05/2020 | Printed | | | 57228 | SOLANO'S CONTRACTOR | lap siding, metal stake, ply | 294.87 |
| 53918 | 06/05/2020 | Printed | | | 10660 | SOLENIS | PRAESTOL K 144I-na DRUM | 1,039.75 |
| 53919 | 06/05/2020 | Printed | | | 53810 | US BANK EQUIPMENT FINANCER | INTER/COPIER May2020 | 913.81 |
| 53920 | 06/05/2020 | Printed | | | 50850 | VERIZON WIRELESS | pw/ww/cod phones may2020 | 95.15 |
| 53921 | 06/05/2020 | Printed | | | 50850 | VERIZON WIRELESS | Fire Dep. Phone/ tablets | 156.63 |
| 53922 | 06/05/2020 | Printed | | | 60005 | YREKA TRANSFER COMPANY | 50/50 w/ parks dump box | 335.22 |
| 53923 | 06/05/2020 | Printed | | | 9942 | SISKIYOU CO. RECORDER | lien Release 4222 Duns. Ave | 23.00 |
| 53924 | 06/12/2020 | Printed | | | 514 | ADVANCED INFOSYSTEMS | billing postage June20 | 382.29 |
| 53925 | 06/12/2020 | Printed | | | 9936 | AL'S SAW SHOP | v belt 177382 | 51.19 |
| 53926 | 06/12/2020 | Printed | | | 3572 | ANTHEM BLUE CROSS | July 2020 insurance | 231.32 |
| 53927 | 06/12/2020 | Printed | | | 1910 | AT&T | 235 0850 wwtp fax | 40.50 |
| 53928 | 06/12/2020 | Printed | | | 2635 | BASIC LABORATORY, INC. | drinking water domest weekly | 33.60 |
| 53929 | 06/12/2020 | Printed | | | 2800 | BAXTER AUTO PARTS, INC. | crack fill machine/shop | 108.40 |
| 53930 | 06/12/2020 | Printed | | | 5325 | REBECCA CATLETT | cleaning May June 2020 | 412.50 |
| 53931 | 06/12/2020 | Printed | | | 9820 | CITY OF DUNSMUIR | ww treatment plant water 6/20 | 480.00 |
| 53932 | 06/12/2020 | Printed | | | 6325 | CLEMENS WASTE REMOVAL | weight/dump fees May2020 | 6,975.05 |
| 53933 | 06/12/2020 | Printed | | | 10653 | CRAFCO, INC. | one month rental crack fill | 6,142.93 |
| 53934 | 06/12/2020 | Printed | | | 9393 | DUNSMUIR RECREATION DIST | huhindauli mainten May20 | 590.00 |
| 53935 | 06/12/2020 | Printed | | | 9303 | FASTENAL COMPANY | respirat, towels | 165.92 |
| 53936 | 06/12/2020 | Printed | | | 5219 | FERGUSON ENTERPRISES INC,1423 | 4X6 SC Rep Clmp | 131.71 |
| 53937 | 06/12/2020 | Printed | | | 31212 | MANFREDI'S DEPOT | gas May2020 | 187.39 |
| 53938 | 06/12/2020 | Printed | | | 31218 | MARKET PLACE INSURANCE | policy 16000621Airport | 441.75 |
| 53939 | 06/12/2020 | Printed | | | 9870 | MT SHASTA AREA NEWSPAPER | Regal sweet water/D.O.G | 134.38 |
| 53940 | 06/12/2020 | Printed | | | 9870 | MT SHASTA AREA NEWSPAPER | Regal hearing D.O.G cup,hist | 133.13 |
| 53941 | 06/12/2020 | Printed | | | 9870 | MT SHASTA AREA NEWSPAPER | parks and rec board vac | 105.00 |
| 53942 | 06/12/2020 | Printed | | | 33146 | MT SHASTA SPRING WATER CO | WW case | 106.15 |
| 53943 | 06/12/2020 | Printed | | | 10650 | MT. SHASTA IT SERVICES, INC | May 2020 | 1,200.00 |
| 53944 | 06/12/2020 | Printed | | | 35505 | NORTHLAND COMMUNICATION | WW plant service | 119.78 |
| 53945 | 06/12/2020 | Printed | | | 35505 | NORTHLAND COMMUNICATION | 5915 Duns service May20 | 150.09 |
| 53946 | 06/12/2020 | Printed | | | 10543 | SCP POOL CORP | 50# soda ash lite | 1,303.67 |
| 53947 | 06/12/2020 | Printed | | | 47669 | SISKIYOU OPPORTUNITY CEN | Blue bag May2020 | 566.38 |
| 53948 | 06/12/2020 | Printed | | | 53806 | USA BLUE BOOK, INC | tubing, male connector | 71.80 |
| 53949 | 06/12/2020 | Printed | | | 58034 | W.M. WILLMAN | Reimb. for boots 19/20 | 150.00 |
| 53950 | 06/12/2020 | Printed | | | 60005 | YREKA TRANSFER COMPANY | 4200 Sacramento box | 585.00 |

Total Checks: 51

Checks Total (excluding void checks):

30,978.24

Check Register Report

Check register

Date: 06/12/2020

Time: 9:48 am

Page: 2

City of Dunsmuir

BANK: U.S. BANK

| Check Number | Check Date | Status | Void/Stop Date | Reconcile Date | Vendor Number | Vendor Name | Check Description | Amount |
|--------------|------------|--------|----------------|----------------|---------------|-------------|-------------------|--------|
|--------------|------------|--------|----------------|----------------|---------------|-------------|-------------------|--------|

Total Payments: 51

Bank Total (excluding void checks): 30,978.24

Total Payments: 51

Grand Total (excluding void checks): 30,978.24

RESOLUTION 2020-07

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNSMUIR
APPOINTING WENDY PERKINS TO THE POSITION OF DEPUTY CITY
CLERK**

WHEREAS, from time to time, the City has need of an employee to attend a City Council or Planning Commission meetings to record and prepare meeting minutes, and

WHEREAS, the City needs to have the services of a Deputy City Clerk to fulfill the duties of the City Clerk as well as to take and prepare meeting minutes and Wendy Perkins, currently an employee of the City who has consented to accept the duties of serving as the Deputy City Clerk;

NOW THEREFORE BE IT RESOLVED, that the City Council hereby appoints Wendy Perkins to serve as the Deputy City Clerk;

IT IS HEREBY CERTIFIED, that the foregoing Resolution was duly adopted by the City Council of the City of Dunsmuir at a regular meeting held on June 18th, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Wendy Perkins, Deputy City Clerk

Mayor, Juliana Lucchesi



| STAFF REPORT | |
|---|--------------------------------|
| RE Adoption of a resolution extending the agreement with Clemens for solid waste removal for one year, including COLA | MEETING DATE: 6/18/2020 |
| SUBMITTED BY: Todd Juhasz, City Manager | |
| PURPOSE OF REPORT: <input type="checkbox"/> Information only <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Action Item | |

WHAT IS BEING ASKED OF THE CITY COUNCIL:

Request that City Council approve an extension of the City’s solid waste contract with Clemens for one year while the City Manager continues to negotiate a long-term contract

BACKGROUND/DISCUSSION:

Clemen’s Waste Removal has provided solid waste collection and removal services to the City of Dunsmuir since 1991. It has been acknowledged that there is a need to update the existing contract for services and consider longer term. The City Council has expressed a desire to consider other services than currently included in existing agreements.

Clemen’s and staff recommend the extension at this time to allow services to continue during 2020-21. This extension agreement documents that negotiations for the execution of a long-term contract is acceptable to both parties and other services and different terms will be discussed as part of those negotiations.

A cost of living adjustment has historically been provided when renewals have been approved. With previous extensions there has traditionally been a cost of living increase. The solid waste rate study completed last year by PACE and accepted by City Council anticipated an average 2.5% COLA during 19-20 and the subsequent four years addressed in the study.

The CM will work towards executing a long-term waste hauling contract prior to the expiration of this extension.

OPTIONS:

Approve the adoption of an Administrative Citation Process

FISCAL IMPACT:

None Yes Budgeted Item? Yes No

Budget Adjustment Needed? Yes No If yes, amount of appropriation increase:

Affected fund(s): General Fund Water OM Fund Sewer OM Fund Other: Water Improvement Fund

SUGGESTED MOTIONS: Motion approve an extension of current solid waste contract

Attachments:

RESOLUTION NO. 2020-08

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNSMUIR
ADOPTING A ONE YEAR CONTRACT EXTENSION AGREEMENT
FOR SOLID WASTE REMOVAL SERVICES WITH
CLEMENS WASTE REMOVAL**

WHEREAS, Ms. Diana Duran representing Waste Removal Contractor and the City of Dunsmuir are requesting a one year contract extension; and

WHEREAS, a Contract Extension Agreement has been prepared extending the contract for one year from July 1, 2020 and expiring June 30, 2021.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Dunsmuir that

1. Contract Extension Agreement attached hereto and made a part hereof is accepted along with the terms included therein; and
2. Mayor is authorized to execute said Contract Extension Agreement on behalf of the City of Dunsmuir.

IT IS HEREBY CERTIFIED that the foregoing Resolution 2020-08 was introduced and duly adopted by the City Council of the City of Dunsmuir at a special meeting held on the 18th day of June 18th, 2020, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor Lucchesi

ATTEST:

Deputy City Clerk, Wendy Perkins

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUNSMUIR ADDING OR AMENDING CHAPTERS 1.09, 8.16, AND 8.17 OF THE CITY MUNICIPAL CODE

The City Council of the City of Dunsmuir ordains as follows:

Section 1: Finding and Purpose

The City Council finds and declares that an Administrative Citation Process is needed as an alternative remedy for code enforcement in the City of Dunsmuir.

Section 2: Addition of Chapter 1.09, amending Chapter 8.16, and addition of Chapter 8.17 of the City Municipal Code

Whereby the City of Dunsmuir ordains to add or amend Chapters 1.09, 8.16, and 8.17 of the City Municipal Code to read as follows:

Chapter 1.09 – ADMINISTRATIVE CITATIONS

Sections:

1.09.010 - Findings and purpose.

The city council hereby finds that there is a need for an alternative method of code enforcement to the traditional civil, criminal or administrative abatement actions, to effect compliance with the City of Dunsmuir Municipal Code, its adopted codes and applicable state codes. The city council further finds that an appropriate alternative method of enforcement for code violations is an administrative citation program as authorized by Government Code section 53069.4.

The procedures established in this chapter will be in addition to criminal, civil or administrative abatement or any other legal remedy established by law, which may be pursued to address violations of the City of Dunsmuir Municipal Code, its adopted codes or applicable state codes.

Use of this chapter will be at the sole discretion of the city.

1.09.020 - Definitions.

"Administrative citation" means the written notice provided to a responsible person to inform that person of a violation of this code, its adopted codes or applicable state codes.

"Enforcement officer" means any officer or employee of the city, including his or her designee, with the authority to enforce this code, its adopted codes or applicable state codes.

"Hearing officer" means the hearing officer appointed by the city council or the city manager. The hearing officer may be a city employee, but in that event the hearing officer shall

not have had any responsibility for the investigation, prosecution or enforcement of this chapter and shall not have had any personal involvement in the proceeding to be heard within the past twelve months or possess any disqualifying interest in the outcome of the proceeding.

"Non-emergency health or safety violation" means a violation of any building, plumbing, electrical or other similar structural or zoning ordinance which does not create an immediate danger to health or safety.

"Responsible person" shall mean either of the following:

1. Any individual or legal entity who is the owner, tenant, co-tenant, lessee, sub-lessee, occupant or other person with any right to possession of the real property, owner or authorized agent of any business, company or entity, who causes, permits or maintains a violation of this code, its adopted codes or applicable state codes.
2. Any individual, legal entity or the parent or the legal guardian of any person under the age of eighteen (18) years, who causes, permits or maintains a violation of this code, its adopted codes or applicable state codes.

1.09.030 - Authority.

A. Any responsible person violating any provision of this code, its adopted codes or applicable state codes will be issued an administrative citation by an enforcement officer as provided in this chapter. A violation of this code includes, but is not limited to, all violations of this code, the uniform codes adopted by the city council, or failure to comply with any condition imposed by any entitlement, permit, agreement or environmental document issued or approved under the provisions of this code.

B. Each and every day or portion thereof that a violation of this code, its adopted codes or applicable state codes exists constitutes a separate and distinct offense.

C. A civil fine shall be assessed by means of an administrative citation issued by an enforcement officer and shall be payable directly to the city.

D. Except where otherwise provided in this code, fines shall be assessed in the amounts specified by resolution of the city council, or where no amount is specified, fines shall be assessed in an amount not exceeding:

1. One hundred dollars (\$100.00) for a first violation, per section 1.09.060 of this chapter;
2. Two hundred dollars (\$200.00) for a second, or continuance of the same violation, of the same provision (other than a building and safety code provision) within one year, and five hundred dollars (\$500.00) for a violation of a building and safety code provision;

3. Five hundred dollars (\$500.00) for a third, or continuance violation of the same provision (other than a building and safety code provision) within one year and one thousand (\$1,000) for a violation of a building and safety code provision;
4. One thousand dollars (\$1,000.00) for each additional, or continuance of the same violation of a building and safety code provision.

1.09.040 - Service procedures.

The enforcement officer will endeavor to elicit voluntary compliance. In the case of non-compliance, an administrative citation form will be issued to the responsible person by the enforcement officer for violations of this code, its adopted codes or applicable state codes in the following manner:

A. Personal service.

The enforcement officer shall attempt to locate and personally serve the responsible person and, if possible, obtain the signature of the responsible person on the administrative citation. If the served responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation or of subsequent proceedings.

B. Service of citation by mail.

1. If the enforcement officer is unable to locate the responsible person, the administrative citation shall be mailed to the responsible person by certified mail, postage prepaid with a return receipt requested. Simultaneously, the administrative citation may be sent by first class mail.
2. Service by mail will be sent to the responsible person's address as shown on public records or as known to the city. If the administrative citation is sent by certified mail and returned receipt is unsigned, then service shall be deemed effective by first class mail, provided the administrative citation sent by the first class mail is not returned.
3. Service of the administrative citation shall be deemed effective five (5) days following deposit of such citation in the U.S. mail.

C. Service of citation by posting notice.

1. If the enforcement officer does not succeed in serving the responsible person personally or by certified or first class mail, the enforcement officer will post the administrative citation in a conspicuous location on any real property within the city in which the city has knowledge that the responsible person has a legal interest.
2. Posting of the administrative citation shall be deemed effective service as of the date that the citation is actually posted.

1.09.050 - Contents of notice.

Each administrative citation will contain the following information:

- A. Date, approximate time and address or definite description of the location where the violation(s) was observed;
- B. The code section(s) or condition(s) violated and a description of the violation(s);
- C. A description of the action required to correct the violation(s);
- D. An order to the responsible person to correct the violation(s) by a correction date and an explanation of the consequences of failure to correct the violation(s);
- E. The amount of the fine for the violation(s);
- F. An explanation of how the fine shall be paid, the deadline by which it shall be paid, and the place to which the fine shall be paid;
- G. An order prohibiting the continuation or repeated occurrence of the code violation(s) described in the administrative citation;
- H. Identification of rights of appeal, including the time within which the administrative citation may be contested and the place to obtain a Notice of Appeal and Request for Hearing form to contest the administrative citation; and
- I. The name and signature of the enforcement officer and, if possible, the signature of the responsible person.

1.09.060 - Satisfaction of administrative citation.

- A. Upon receipt of an administrative citation, the responsible person shall do the following:
 - 1. Remedy the violation(s) if the violation(s) is of such a nature that it can be remedied. If a non-emergency health or safety violation(s) is corrected before the correction date provided on the administrative citation, no fine will be imposed.
 - 2. Pay the fine to the city within fifteen (15) calendar days from the date on the administrative citation. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the city;
- B. If the responsible person fails to correct the violation(s) set forth in the administrative citation, subsequent administrative citations may be issued for the same violation(s). The amount of the fine for failure to correct the violation shall increase at the rate specified in section 1.09.030.

1.09.070 - Appeal of administrative citation.

A. Any recipient of an administrative citation may contest that there was a violation of this code or that he or she is the responsible person by completing a Notice of Appeal and Request for Hearing form and filing it with the city clerk within fifteen (15) calendar days from the date of issuance of the administrative citation, together with an advance deposit of the total amount of the fine, or the timely filing of a Request for an Advance Deposit Hardship Waiver form pursuant to section 1.09.080. Any administrative citation fine, which has been deposited, shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation(s) or that there was no violation(s) as charged in the administrative citation.

B. In addition to the requirements listed in section 1.09.070, any appeal of the administrative citation shall include a detailed written explanation as to the grounds for appeal of the administrative citation. Any appeal shall be limited to such written grounds.

C. Appeals of administrative citations will be conducted pursuant to the following procedures:

1. A hearing will be set for a date that is not less than fifteen (15) days and not more than ninety (90) days from the date that the request for hearing is filed in accordance with the provisions of this chapter.

2. At the hearing, the party contesting the administrative citation will be given the opportunity to testify and to present evidence concerning the administrative citation.

3. The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.

4. The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the citation prior to issuing a written decision.

1.09.080 - Advance deposit hardship waiver.

A. Any person who intends to request a hearing to contest an administrative citation and who is financially unable to make the advance deposit of the fine may file a Request for an Advance Deposit Hardship Waiver form, available from the city clerk.

B. The request shall be filed with the city clerk within five (5) days of the date of the issuance of the administrative citation.

C. The requirement of depositing the full amount of the fine, as described in section 1.09.030, shall be stayed unless or until the city manager makes a determination not to issue the advance deposit hardship waiver.

D. The city manager may waive the requirement for advance deposit only if the cited party submits to the city manager a declaration under penalty of perjury supported by evidence that

shows to the city manager's reasonable satisfaction that such party is financially unable to deposit the total amount of the fine in advance of the hearing.

E. If the city manager determines not to issue an advance deposit hardship waiver, the cited party shall remit the deposit to the city within five (5) days of the date of that decision or fifteen (15) days from the date of issuance of the administrative citation, whichever is later.

F. The city manager shall list his/her reasons for granting or not granting an advance deposit hardship waiver in writing and serve it on the cited party. The city manager's decision is final.

1.09.090 - Hearing officer's decision.

A. If the hearing officer determines that the administrative citation should be upheld, then the city will retain the fine amount on deposit with the city.

B. If the hearing officer determines that the administrative citation should be upheld, and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer will set a fine payment schedule for the payment of the fine.

C. If the hearing officer determines that the administrative citation should be canceled and the fine was deposited with the city, then the city will promptly refund the amount of the deposited fine.

1.09.100 - Failure to pay fines.

A. The failure of any person to pay the civil fines assessed by an administrative citation within the time specified on the citation may result in the matter being referred to the city attorney to file a claim with the applicable court. Alternatively, the city may pursue any other legal remedy to collect the civil fines, including, but not limited to, a lien pursuant to section 8.17.070 or special assessment pursuant to section 8.17.080.

B. Any person who fails to pay to the city any fine imposed pursuant to this chapter on or before the date that fine is due also shall be liable for the payment of a onetime late payment charge in the amount of twenty-five dollars (\$25.00), plus interest at the maximum rate permitted by law.

C. The payment of any administrative fine shall not excuse or otherwise provide any defense to the continued violation of any provision of this code.

1.09.110 - Notices.

A. The administrative citation and all notices to be given by this chapter shall be served on the responsible person in accordance with the provisions of section 1.09.040.

B. Failure to receive actual notice specified in this chapter does not affect the validity of proceedings conducted hereunder.

Chapter 8.16 – NUISANCE ABATEMENT

Sections:

8.16.010 - Purpose.

This chapter is adopted for the purpose of defining those conditions of real property in the city which constitute nuisances; and for the further purpose of establishing procedures for ordering the abatement of a nuisance; authorizing city personnel to undertake the work necessary to abate such nuisance in the event of noncompliance with such abatement order; levying an assessment against the owner of the property on which such nuisance abatement work was performed in the amount of city's abatement costs; and either causing a lien to be recorded against such property in the amount of such assessment costs or causing such assessment to be added to Siskiyou County assessment rolls and collected at the same time and in the same manner as property taxes.

8.16.020 - Findings.

The city council hereby finds:

- A. That there are numerous buildings, structures and other conditions on or pertaining to real property located in the city which constitute nuisances as defined in this chapter;
- B. That continued existence of such nuisances is injurious to the public health, safety and welfare;
- C. That abatement of such nuisances in the manner provided by this chapter is a proper exercise of the city's police powers and is specifically authorized by Government Code (commencing with section 38771); and
- D. That abatement of such nuisances in the manner provided by this chapter is reasonable and affords to the owner of the property on which the nuisance is located all of the due process rights guaranteed by the federal and state constitutions.

8.16.030 - Nuisance defined.

- A Any condition caused or permitted to exist in violation of any of the provisions of this chapter, or its adopted codes, shall be deemed a public nuisance and may be abated by the city.
- B. It shall be unlawful and a public nuisance for any person owning, occupying, leasing or having charge or possession of any property in the city to maintain or allow to be maintained on such property any of the conditions set forth in this section, regardless of whether the property or any structure thereon is vacant or occupied.
 - 1. The exterior accumulation of growths, dirt, litter, rubbish or debris.

2. Broken, abandoned or discarded furniture or other household equipment or fixtures, packing boxes, lumber, junk, trash, rubbish, or other materials or debris, including the dumping, spillage or storage of solids or liquids which may negatively impact the visual or olfactory nature of the area.
3. Buildings, fences or other structures, the exterior walls or windows containing graffiti or other inscribed material or which are cracked, broken, leaning, fallen, decayed, deteriorated or defaced.
4. Any dangerous, unsightly or blighted condition. For purposes of this section, "blighted" shall mean characterized as being in a condition of decay, deterioration, disrepair, neglect or inadequate maintenance, including but not limited to conditions constituting a public nuisance, contributing to the diminution of the property values of surrounding properties, undermining the economic vitality of a neighborhood or creating health or safety dangers.
5. Neglected or improperly maintained landscaping, including but not limited to dead, debris laden, weed infested or overgrown vegetation, such as trees, shrubs, hedges, grass and ground covers, or vegetation dying as a result of physical damage, disease, insect infestation or lack of water, or the removal or failure to maintain in good condition any landscaping required as a condition to any permit or development approved or included in the project plans or application, without city approval; provided however, that the provision as to dead or dying vegetation due to lack of water shall not to be enforced during a drought year, as determined by the city. For purposes of this subsection, a lawn area shall be deemed overgrown if fifty percent or more of its area exceeds twelve inches in height.
6. A failing septic tank and/or leach field system.
7. An unprotected excavation and/or abandoned and uncovered well.
8. An unfenced or otherwise unprotected swimming pool.
9. Storage or maintenance in a residential zone, visible from public view point - a street, alleyway, sidewalk or right-of-way - of metal storage bins or containers larger than 80 square feet.
10. The exterior storage or maintenance of parts or machinery of any type or description unless specifically authorized by a city license or permit; building materials or merchandise unless specifically authorized by use permit; or construction equipment or garbage bins except while excavation, construction or demolition operations covered by an active building permit or other city projects are in progress on the subject or adjoining property. This subsection shall also apply to situations involving abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, on private or public property, and the abatement thereof.

11. The exterior storage of any number of tires in a manner that allows any accumulation of water or creates a fire hazard.
12. The parking or storage of any boat, trailer, camper, motor home, unregistered or non-operable vehicles or other mobile equipment, whether or not motorized, or portions or parts and components thereof, on property used or zoned for residential purposes, if either:
 - a. located on any front lawn or front yard or driveway within the front yard set back measured from the property boundary line; or
 - b. located in any side yard, so as to prevent a three foot (3 ') wide continuous access way from the front of the property; or
 - c. located on any side yard within the required side yard set back measured from the property boundary line of any corner lot.
13. The use of any trailer, camper or motor home for residential occupancy except on property zoned for mobile home parks or camping.
14. Land, the topography, geology or configuration of which, whether in natural state or as a result of grading operations, excavation or fill, causes erosion, subsidence, or surface water drainage problems of such magnitude as to be injurious or potentially injurious to the public health, safety and welfare or to adjacent properties.
15. Obstruction or encroachment upon any public property, including but not limited to any public street, sidewalk, highway, right-of-way, park or building, without prior city consent. Such obstructions or encroachments include, but are not limited to overgrown trees and shrubs; building materials; merchandise or other personal property; and buildings or portions of buildings or structures protruding onto public property.
16. A building or structure which is constructed, maintained or used in violation of the building, fire or zoning regulations adopted by or pursuant to this code.
17. Maintenance of any substance which because of its quantity, concentration or physical, chemical or infectious characteristics may either cause or substantially contribute to an increase in mortality or serious illness or pose a significant present or potential hazard to human health or the environment if improperly managed.
18. Any condition recognized in law or in equity as constituting a public nuisance.
19. Any condition constituting a "substandard building" under section 17920.3 of the California Health and Safety Code.
20. The existence of any property condition which is unlawful or declared to be a public nuisance pursuant to any other provision in this code.

This subsection shall be construed to place an affirmative duty on property owners and occupants to maintain their property in conformity with all applicable codes. The city will have the power to require property owners and occupants to bring their property into compliance with applicable codes, regardless of whether or not the building is occupied.

Each day that any condition which constitutes a public nuisance continues shall be deemed to be a separate violation of this chapter.

8.16.040 - Notice to abate.

A In General. Whenever any property is found by the code enforcement officer to contain a public nuisance as declared by this chapter, he or she will notify the owner of such property in writing by issuing a Notice to Abate. The notice will state the conditions which constitute the public nuisance, and will order the owner to abate said conditions within thirty (30) days after the date of notice. The notice may provide for a shorter period of time in which to abate the public nuisance in the event that (1) the condition which constitutes the public nuisance is not one which makes the property substandard housing as defined by Health & Safety Code section 17920.3, or (2) prior notices to abate the same condition have been sent within the last (90) days and the condition has not been abated.

B. Substandard Housing. Whenever the condition which constitutes a nuisance is a substandard residential building, as defined by Health & Safety Code section 17920.3, then the Notice to Abate required by this section shall be sent not only to the owner, but also to any mortgagee or beneficiary under any deed of trust of record. The notice shall state the conditions which render the building unfit for human habitation and shall order the building or the affected portion of it vacated, and further order that it be either repaired or demolished within thirty (30) days after the date of notice.

If such building is encumbered by a mortgage or deed of trust of record, and the owner does not comply with the Notice to Abate on or before the expiration of thirty (30) days after its mailing and posting, the mortgagee or beneficiary may, within fifteen (15) days after the expiration of said thirty (30) day period, comply with the requirements of the Notice to Abate, in which event the cost of the mortgagee or beneficiary in so doing will be added to and become a part of the lien secured by the mortgage or deed of trust and shall be payable as provided by Title 25 of the Code of California Regulations, section 54.

C. Manner of Giving Notice.

1. General. The notices will be mailed by certified U.S. mail, postage prepaid and return receipt requested, to the owner of the property at the address for the owner shown on the last equalized assessment roll of Siskiyou County. The names and addresses of owners appearing on the assessment roll shall be conclusively deemed to be the proper person and address for the purpose of mailing such notices. In addition, if the property is other than vacant property, a copy of the notice shall be mailed to the property address.

2. Substandard housing. Whenever the condition which constitutes a nuisance also constitutes a substandard residential building, as defined by Health & Safety Code section 17920.3, then at least one copy of the Notice to Abate will be posted conspicuously on the building alleged to be substandard; and an additional copy will be mailed by registered or certified mail, postage prepaid and return receipt requested, to any mortgagee or beneficiary on any note or deed of trust of record. If the address of a mortgagee or beneficiary is unknown, then that fact will be stated on the copy so mailed, and the Notice to Abate will be sent to the mortgagee or beneficiary addressed to him or her.

3. Affidavits. The employee sending such Notice to Abate will file an affidavit with the city clerk certifying the time and manner in which notice was given and will also file with the city clerk any receipt card returned in acknowledgment of the Notice to Abate.

4. Failure to receive notice. The failure of any owner or other person to receive the Notice to Abate or other notices required by this chapter shall not affect in any manner the validity of any proceeding taken under this chapter.

8.16.050 - Tenant notification.

Tenants in a residential building shall be provided a copy of any notice served under this chapter concerning any violation which affects the health and safety of the occupants and which violates Civil Code section 1941.1, any order declaring the premises to be substandard, the city's decision to repair or demolish, or the issuance of a building or demolition permit following the abatement order. Copies may be provided either by first class mail to each affected residential unit, or by posting a copy in a prominent place on the premises at the discretion of the code enforcement officer.

8.16.060 - Order to show cause.

A. It shall be unlawful to fail, neglect or refuse to comply with a Notice to Abate issued pursuant to this chapter.

B. In the event the owner fails, neglects or refuses to comply with the Notice to Abate, the code enforcement officer may serve an "Order to Show Cause" which shall order such person to either abate the conditions specified in the Notice to Abate or appear before a hearing officer, at a stated time and place, not less than fifteen (15) days from the date of the Order, to show cause why the conditions should not be abated by the city at the owner's expense. The Order to Show Cause will be served and posted, and an affidavit filed with the city clerk, in the manner specified in section 8.16.040.

8.16.070 - Form of order to show cause.

The Order to Show Cause will be in substantially the following form:

NOTICE TO ABATE NUISANCE
AND
ORDER TO SHOW CAUSE

Hearing Date:

Time:

Location:

The initial determination that there exists upon the building, structure, lot or premises located at _____, City of Dunsmuir, California, condition(s) constituting a public nuisance(s) under section 8.16.030 of City of Dunsmuir Municipal Code.

The conditions constituting the nuisance are: _____. The methods of abatement available are: _____. You have previously received a written Notice to Abate dated _____ requiring you to abate these conditions and have failed to do so. **YOU ARE HEREBY ORDERED** to either: (1) **ABATE THE ABOVE CONDITION(S)** by repairing, replacing, removing, destroying or otherwise remedying the condition(s) to the satisfaction of the undersigned enforcement officer within _____ days of the date of this order; OR, alternatively, (2) **TO APPEAR AND SHOW CAUSE** before a hearing officer at the offices of the _____ located at _____, on at _____ o'clock, date to show why these condition(s) should not be abated by the city and the expenses of doing so be charged to you as a personal debt and/or made a special assessment and lien upon the premises.

All persons having an interest in said matters are notified to attend the hearing, and their testimony and evidence will be given due consideration. **WARNING!** (1) If you do not either abate the conditions or attend the hearing, you will have waived your right to a hearing regarding the existence of the nuisance. In that case, the city will abate the nuisance and the expenses of doing so will be made a special assessment and lien upon the property, In addition, you may be cited for violations of the City of Dunsmuir Municipal Code and subject to a fine. (2) Once vehicles or other property are abated by the city, they may be destroyed or otherwise disposed of as provided by law. (3) In accordance with Revenue and Taxation Code sections 17274 and 24436.5, a tax deduction may not be allowed for interest, taxes, depreciation or amortization paid or incurred in the taxable year if these conditions are not abated.

Dated: _____

Code Enforcement Officer

The portion of the heading entitled "Notice to Abate Nuisance and Order to Show Cause" will be in letters not less than three-fourths ("3/4") inch in height.

8.16.080 - Show cause hearing.

The show cause hearing to determine whether a nuisance exists shall be conducted by a hearing officer as set forth in section 1.09.070. The hearing officer's decision shall be final unless challenged in superior court. Any action brought in superior court challenging the hearing officer's decision and order shall be commenced within thirty (30) calendar days of the date of service of such decision.

8.16.090 - Waiver of abatement hearing.

Failure of the owner or responsible party to either abate the conditions specified in the Order to Show Cause or to appear at the hearing on the Order to Show Cause after notice has been served shall be deemed a waiver of the right to a hearing and an admission by such owner or responsible party of the existence of the nuisance conditions as specified. In the event of an unexcused failure to appear, the hearing officer may issue an Order of Abatement permitting the conditions to be abated by the city. Notwithstanding anything in this chapter to the contrary, there shall be no right to appeal such order following both a failure to appear and a failure to abate.

8.16.100 - Hearing officer order of abatement.

Upon the conclusion of the hearing on the Order to Show Cause, the hearing officer will determine whether the activity or the premises, or any part thereof, as maintained, constitutes a public nuisance. If the hearing officer finds that a public nuisance does not exist, he or she will dismiss the proceedings. If the hearing officer finds that a public nuisance does exist and that there is sufficient cause to order the abatement of the public nuisance, the hearing officer will issue an Order of Abatement, which will contain findings of fact and will direct and order the public nuisance abated within the time, and in the manner set forth in the Order. The Order of Abatement will be served in the manner set forth in sections 8.16.040.

8.16.110 - Failure to comply with order of abatement.

It shall be unlawful to fail, neglect or refuse to comply with an Order of Abatement issued pursuant to this chapter.

8.16.120 - Abatement by city.

A. If the nuisance is not completely abated by the owner in the time and manner set forth in the Order of Abatement, the nuisance shall be abated by city forces or private contractors retained in accordance with the provisions of this code; and entry upon the premises to which the Order of Abatement relates is expressly authorized for such purposes. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city whenever such person is engaged in the work of abatement, or in performing any necessary act preliminary to or incidental to such work, as authorized or directed pursuant to this chapter. The cost, including incidental expenses, of abating the nuisance shall become a civil debt of the owner and

other responsible persons and shall be billed to the owner and become due and payable fifteen (15) days thereafter. The term "incidental expenses" shall include, but not be limited to, personnel costs, both direct and indirect; attorney's fees; costs incurred in documenting the nuisance; the actual expenses and costs of the city in the preparation of notices, specifications, and contracts and in inspecting the work; the costs of printing and mailing the notices required hereunder; and any administrative or recording costs charged by the county.

B. In the event that the owner or occupant fails to consent to the city entering his or her property for the purposes of inspecting and/or abating a nuisance under this chapter, the city may, if legally required, apply for and be granted a court warrant if cause exists, pursuant to Code of Civil Procedure section 1822.52 or any other authority.

8.16.130 - Summary abatement.

Notwithstanding any other provision of this chapter to the contrary, whenever it is determined that a public nuisance is so imminently dangerous to life or other property that such condition must be immediately corrected or isolated, the city may institute the following procedures:

A. Notice. The enforcement officer will attempt to make contact through a personal interview, or by telephone, with the landowner or the person, if any, occupying or otherwise in real or apparent charge and control thereof. The enforcement officer will document all attempts to make contact. In the event contact is made, the enforcement officer will notify such person or persons of the danger involved and require that such condition be immediately removed, repaired or isolated so as to preclude harm to any person or property.

B. Abatement. In the event the enforcement officer is unable to make contact as required by this section, or if the appropriate persons, after notification by the enforcement officer, do not take action as specified by such official within seventy-two (72) hours, or a lesser period if deemed necessary, then the enforcement officer may, with the approval of the city manager and in consultation with the city attorney if feasible, take all steps necessary to remove or isolate such dangerous condition, or conditions, with the use of city forces or a contractor retained pursuant to the provisions of this code. Provided, however, that summary abatement shall be limited solely to those matters which are imminently dangerous to life or other property, and additional abatement, if necessary, shall utilize the other enforcement provisions of this chapter.

C. Costs. The enforcement officer will keep an itemized account of the costs incurred by the city in removing or isolating such condition or conditions. Such costs may be recovered to the same extent and in the same manner that abatement costs incurred pursuant section 8.16.120 are recovered.

8.16.140 - Recovery of costs of abatement.

The costs of abatement incurred under this chapter shall be recouped through a civil action pursuant to section 8.17.040, a lien pursuant to section 8.17.070, or a special assessment pursuant to section 8.17.080.

8.16.150 - Hearing officer.

The city council will appoint hearing officers to conduct proceedings under this chapter. The hearing officer may be a city employee, but in that event the hearing officer will not have had any responsibility for the investigation, prosecution or enforcement of this chapter and will not have had any personal involvement in the proceeding to be heard within the past twelve months or possess any disqualifying interest in the outcome of the proceeding.

8.16.160 - Violation unlawful.

In addition to any other remedies provided for in this chapter or under applicable law, violation of this chapter or a failure to comply with an Order of Abatement or Notice to Abate issued pursuant to this chapter shall be unlawful and an offense. Such violations shall be punishable as provided by chapter 8.17.

8.16.170 - Recordation of notice of violation.

Any city employee authorized to enforce this code may record a "Notice of Violation" against any property on which a public nuisance exists declaring the existence of the nuisance and describing it. In any case where such a notice has been recorded and the nuisance is later abated, the city employee will record a further notice declaring the nuisance abated.

8.16.180 - Nonexclusive procedure and remedies.

Any condition found to constitute a public nuisance may be abated pursuant to the procedures set forth in this chapter, other provisions of this code or other applicable law.

8.16.190 - No city duty to enforce.

Nothing in this chapter shall be construed as requiring the city to enforce its prohibitions against any or all properties which may violate it. The city envisions that this chapter will be enforced, in the city's prosecutorial discretion, only as to a limited number of problem properties, as resources permit. Nothing in this section or the absence of any similar provisions from any other city law shall be construed to impose a duty on the city to enforce such other provision of law. This chapter is not intended to and shall not be construed or given effect in a manner that imposes upon the city or any officer or employee thereof a mandatory duty of care towards persons and property within or without the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Chapter 8.17 – CODE ENFORCEMENT

Sections:

8.17.010 - Violations a misdemeanor or infraction.

No person shall violate any provision or fail to comply with any of the requirements of this code, including its adopted codes. Every such person shall be guilty of a separate and distinct offense for each and every day, or any portion thereof, of which any violation of any provision of this code is committed, continued or permitted by such person, and shall be punishable accordingly. Subject to chapter 1.09, every act prohibited, declared unlawful or declared substandard or unsafe and every failure to perform an act made mandatory shall constitute either a misdemeanor or an infraction, at the discretion of the city attorney.

8.17.020 - Infraction.

Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code, including its adopted codes, may be prosecuted for an infraction. Any person convicted of an infraction under the provisions of this code shall be punished according to the fine schedule listed below:

- A. One hundred dollars (\$100.00) for a first violation, per section 1.09.060 of this chapter;
- B. Two hundred dollars (\$200.00) for a second, or continuance of the same violation, of the same provision (other than a building and safety code provision) within one year, and five hundred dollars (\$500.00) for a violation of a building and safety code provision;
- C. Five hundred dollars (\$500.00) for a third, or continuance violation of the same provision (other than a building and safety code provision) within one year and one thousand (\$1,000) for a violation of a building and safety code provision;
- D. One thousand dollars (\$1,000.00) for each additional, or continuance of the same violation of a building and safety code provision.

8.17.030 - Misdemeanor.

- A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code, including its adopted codes, may be prosecuted for a misdemeanor.
- B. Any person convicted of a misdemeanor under the provisions of this code shall be punished by a fine not exceeding one thousand dollars (\$1000.00), imprisonment for a term not exceeding six (6) months or both.
- C. In the event a person is imprisoned for violation of any of the provisions of this code, such person may be required to labor on public property or works within the city.

8.17.040 - Civil action.

The city attorney, by and at the request of the city council or city staff, may institute an action in any court of competent jurisdiction to restrain, enjoin or abate the condition(s) found to be in violation of the provisions of this code, including its adopted codes, as provided by law. The city attorney, by and at the request of the city council or city staff, may institute an action in any court of competent jurisdiction to collect a civil debt owing to the city.

8.17.050 - Administrative citation.

As set forth in Chapter 1.09, the city may issue an administrative citation for any violation of this code.

8.17.060 - Attorneys' fees and costs.

A. In any action, administrative proceeding or special proceeding commenced by the city to abate a public nuisance, to enjoin violation of any provision of this code, including its adopted codes, or to collect a civil debt owing to the city, if the city elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees, the prevailing party shall be entitled to recover all costs incurred therein, including reasonable attorneys' fees and costs of suit. In no action, administrative proceeding or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

B. The city shall be considered a prevailing party entitled to attorneys' fees under subsection A when it can demonstrate that:

1. Its lawsuit was the catalyst motivating the defendant to provide the primary relief sought;
2. The lawsuit was meritorious and achieved its result by "threat of victory;" and
3. The city reasonably attempted to settle the litigation before filing the lawsuit.

8.17.070 - Lien procedure.

A. The code enforcement officer or other authorized city official will keep an itemized report of the costs incurred by the city in the abatement of any public nuisance in addition to any accrued fees and penalties due. The property owner may be invoiced for the total. If payment is not received, the itemized report will be submitted in writing to the city clerk no sooner than fifteen (15) days of the invoice date. Any such report may include the abatement costs, fees and penalties for any number of properties and abatements, whether or not such properties are contiguous.

B. Upon receipt of the itemized report, the city clerk, or his or her designee, shall serve notice of the lien in the same manner as summons in a civil action in accordance with Code of Civil Procedure section 415.10 et seq. If the owner of record, after diligent search cannot be found, the

notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in Record Searchlight or other newspaper of general circulation in Siskiyou County. The period of notice commences upon the first day of publication and terminates at the end of the tenth day, including therein the first day. Publication shall be made on each day on which the newspaper is published during the ten (10) day period.

C. After notice has been served, the lien shall be recorded in the Siskiyou County Recorder's Office and, from the date of recording, shall have the force, effect and priority of a judgment lien.

D. The lien shall identify:

1. The amount of the lien;
2. The city as the agency on whose behalf the lien is imposed;
3. The date of the abatement order or citation;
4. The street address, legal description and assessor's parcel number of the parcel on which the lien is imposed; and
5. The name and address of the recorded owner of the parcel.

E. In the event that the lien is discharged, released or satisfied, through either payment or foreclosure, notice of the discharge will be recorded by the city clerk.

F. A lien may be foreclosed by an action brought by the city for a money judgment.

G. The city may recover from the property owner any costs incurred in the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

8.17.080 - Special assessment procedure.

A. The code enforcement officer or other authorized city official will keep an itemized report of the costs incurred by the city in the abatement of any public nuisance in addition to any accrued fees and penalties due. The property owner may be invoiced for the total. If payment is not received, the itemized report will be submitted in writing to the city clerk no sooner than fifteen (15) days of the invoice date. Any such report may include the abatement costs, fees and penalties for any number of properties and abatements, whether or not such properties are contiguous.

B. Upon receipt of the itemized report, the city clerk will serve notice by certified mail to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The notice will be given at the time of imposing the assessment and will specify that the property may be sold after three (3) years by the tax collector for unpaid

delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

C. Subject to the requirements applicable to the sale of property pursuant to section 3691 of the Revenue and Taxation Code, the city may conduct a sale of the property for which the payment of that assessment is delinquent.

D. Notices or instruments relating to the special assessment shall be entitled to recordation.

8.17.080 - Order for Treble Costs of Abatement.

Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property is responsible for a condition that may be abated in accordance with the provisions of this chapter, except for conditions abated pursuant to section 17980 of the Health & Safety Code, relating to abandoned buildings, the court may order the owner to pay treble the costs of the abatement, as authorized by Government Code section 38773.7. Costs of abatement shall include, without limitation by reason of enumeration, all administrative costs of the city.

Section 3: Severability.

If any provision of the chapter codified in this ordinance or the application of any provision of the chapter codified in the ordinance to any person or circumstance is held invalid, that invalidity shall not affect any other provision or application of the chapter codified in this ordinance which can be given effect without the invalid provision or application, and to this end, the provision of the chapter codified in this ordinance are expressly made severable.

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Section 4: Adoption.

This ordinance shall take effect and be in full force and effect from and after 30 days after its passage. The clerk shall cause this ordinance to be published as required by law.

PASSED AND ADOPTED this ____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Juliana Lucchesi, Mayor

ATTEST:

FORM APPROVED:

, City Clerk

John Sullivan Kenny
City Attorney



| STAFF REPORT | |
|---|--------------------------------|
| RE: Election Resolution | MEETING DATE: 6/18/2020 |
| SUBMITTED BY: Todd Juhasz, City Manager | |
| PURPOSE OF REPORT: <input type="checkbox"/> Information only <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Action Item | |

WHAT IS BEING ASKED OF THE CITY COUNCIL:

Requests that the City Council approve the proposed resolution related to requesting that the Siskiyou County Clerk place two measures on the Nov. 7th ballot to adopt a Transactions and Use Tax either as a special tax, requiring a two-thirds vote, or dedicated to public safety or as a general tax requiring a majority vote.

BACKGROUND/DISCUSSION:

The Finance Committee has recommended the placement of two measures on the November 7th ballot. The first is a special tax requiring a two-thirds vote that would raise the local Transaction and Use Tax by 1.5%. The special tax would be dedicated to public safety. Should the voters fail to support the aforementioned special tax, a second general tax measure will also be on the ballot calling for a 1.5% Transaction and Use Tax increase. The general tax would be used for general City purposes.

To place both measures on the ballot, the passage of a resolution is required requesting that the Siskiyou County clerk place them on the November 7th ballot.

OPTIONS:

Approve the resolution in support of placing a general and a special tax measure on the ballot. If the special tax should pass it would supersede the general tax. If the special tax should not pass, the general tax would become the primary measure up for consideration.

FISCAL IMPACT:

None Yes Budgeted Item? Yes No

Budget Adjustment Needed? Yes No If yes, amount of appropriation increase:

Affected fund(s): General Fund Water OM Fund Sewer OM Fund Other

SUGGESTED MOTIONS: Motion to approve a resolution in support of a general tax and a special tax measure to be placed on the November 7th ballot.

Attachments:

EXHIBIT "A"

AN ORDINANCE OF THE CITY OF DUNSMUIR ADDING CHAPTER 3.21 TO THE MUNICIPAL CODE IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION (GENERAL TAX)

3.21.010. TITLE. This ordinance shall be known as the Enhanced Transactions and Use Tax Ordinance. The City of Dunsmuir hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

3.21.020. OPERATIVE DATE. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

3.21.030. PURPOSE. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a Manner than will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3.21.040. CONTRACT WITH STATE. Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions

incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.21.050. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 1.5% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.21.060. PLACE OF SALE. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State of California, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3.21.070. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 1.5% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.21.080. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3.21.090. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California.

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the function incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702,(except in the last sentence thereof), 6711, 6715, 6737, 6797, or 6828 of the Revenue and Taxation Code.

B. The word “City” shall be substituted for the word “State” in the phrase “retailer engaged in business in this State” in Section 6203 and in the definition of that phrase in Section 6203.

1. “A retailer engaged in business in the District” shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

3.21.100. PERMIT NOT REQUIRED. If a seller’s permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor’s permit shall not be required by this ordinance.

3.21.110. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the city, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the city shall be satisfied.

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchase by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any

foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property of any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the city or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax and transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.21.120. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

3.21.130. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, or any tax or any amount of tax required to be collected.

3.21.140. USE OF TAX PROCEEDS. All proceeds of the tax levied and imposed by this ordinance shall be accounted for and paid into a fund designated for use by the City to provide funding for much needed City services and improvement to existing services.

3.21.150. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

3.21.160. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

3.21.170. DURATION. This ordinance shall remain in effect until repealed or amended by vote of the electorate.

The foregoing Ordinance was adopted at the regular meeting of the City Council of the City of Dunsmuir held on _____, 2020 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

CITY OF DUNSMUIR

Juliana Lucchesi, Mayor

ATTEST:

FORM APPROVED:

_____, City Clerk

John Sullivan Kenny, City Attorney

RESOLUTION NO. CCR 2020-09 _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNSMUIR
REQUESTING THE ELECTION CLERK OF THE COUNTY OF SISKIYOU
TO PLACE ON THE NOVEMBER 7, 2020 BALLOT TWO MEASURES TO ADOPT A
SALES AND TRANSACTION TAX (ONE AS A SPECIAL TAX REQUIRING TWO-
THIRDS VOTE, AND ONE AS A GENERAL TAX REQUIRING A MAJORITY VOTE)**

WHEREAS, the City Council of the City of Dunsmuir desires to place on the November 7, 2020 Ballot two Ballot Measures to authorize the imposition of a 1.5 cent sales tax; and

WHEREAS, one ballot measure (Exhibit "A" attached) is a General Tax with revenues to be used for general City purposes and requiring a majority vote for adoption; and

WHEREAS, the second ballot measure (Exhibit "B" attached) is a Special Tax with revenues to be used exclusively for police and fire protection services and requiring a two-thirds vote for adoption; and

WHEREAS, by two-thirds vote of all Council Members, the City Council has approved both ordinances; and

WHEREAS, the ordinance for the Special Tax provides that if the General Tax Ordinance is adopted, such adoption will render the Special Tax Ordinance void; and

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Dunsmuir does hereby resolve, declare, determine and order as follows:

Section 1: The City Council requests that the following questions be placed on the November 7, 2020 Ballot:

| | |
|---|-----|
| City of Dunsmuir Sales and Transaction Tax to Fund General City Expenses (General Tax) | |
| Shall an ordinance be adopted authorizing the City of Dunsmuir to collect a sales tax (Transaction and Use Tax) of 1.5% to be used for general City purposes and to remain in effect until repealed or amended by the electorate and which will raise approximately \$200,000 annually? | YES |
| | NO |

| | |
|---|-----|
| City of Dunsmuir Special Sales and Transaction Tax to Fund Police and Fire Protection Services (Special Tax) | |
| Shall an ordinance be adopted authorizing the City of Dunsmuir to collect a special sales tax (Transaction and Use Tax) of 1.5% to be used exclusively for police and fire protection and to remain in effect until repealed or amended by the electorate and which would raise approximately \$200,000 annually and which would be void and of no effect if a 1.5% general sales tax ordinance is adopted? | YES |
| | NO |

Section 2: In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 3:

MEASURES TO BE SUBMITTED TO THE VOTERS

MEASURE _____

Exhibit "A" (attached)
A General Tax

MEASURE _____

Exhibit "B" (attached)
A Special Tax

Section 4: The County Clerk of the County of Siskiyou is authorized, instructed and directed to give all appropriate and convenient notice of the election, inform, time and manner as prescribed by law.

PASSED and ADOPTED this 18th day of June , 2020 by the following vote.

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

DATED: _____, 2020

CITY OF DUNSMUIR

Juliana Lucchesi, Mayor

ATTEST:

_____, City Clerk

APPROVED AS TO FORM:

John S. Kenny, City Attorney

EXHIBIT "B"

AN ORDINANCE OF THE CITY OF DUNSMUIR ADDING CHAPTER 3.21 TO THE MUNICIPAL CODE IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION (SPECIAL TAX)

3.21.010. TITLE. This ordinance shall be known as the Enhanced Transactions and Use Tax Ordinance. The City of Dunsmuir hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

3.21.020. OPERATIVE DATE. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

3.21.030. PURPOSE. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a Manner than will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3.21.040. CONTRACT WITH STATE. Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions

incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.21.050. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 1.5% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.21.060. PLACE OF SALE. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State of California, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3.21.070. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 1.5% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.21.080. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3.21.090. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California.

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the function incident to the administration or operation of this ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702,(except in the last sentence thereof), 6711, 6715, 6737, 6797, or 6828 of the Revenue and Taxation Code.

B. The word “City” shall be substituted for the word “State” in the phrase “retailer engaged in business in this State” in Section 6203 and in the definition of that phrase in Section 6203.

1. “A retailer engaged in business in the District” shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

3.21.100. PERMIT NOT REQUIRED. If a seller’s permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor’s permit shall not be required by this ordinance.

3.21.110. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the city, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the city shall be satisfied.

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchase by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any

foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property of any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the city or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax and transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.21.120. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

3.21.130. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, or any tax or any amount of tax required to be collected.

3.21.140. USE OF TAX PROCEEDS. All proceeds of the tax levied and imposed by this ordinance shall be accounted for and paid into a special funds designated for use by the City to provide funding exclusively for police and fire protection in the City.

3.21.150. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

3.21.160. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

3.21.170. DURATION. This ordinance shall remain in effect until repealed or amended by vote of the electorate.

3.21.180. SUPERSESSSION. If a general tax imposing a 1.5% Tax Enhanced Transaction and Use Tax is adopted by the voters as a general tax, it will supersede and replace this ordinance and this ordinance will be void.

The foregoing Ordinance was adopted at the regular meeting of the City Council of the City of Dunsmuir held on _____, 2020 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

CITY OF DUNSMUIR

Juliana Lucchesi, Mayor

ATTEST:

FORM APPROVED:

_____, City Clerk

John Sullivan Kenny, City Attorney

RESOLUTION NO. 2020-10

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF DUNSMUIR AUTHORIZING BALLOT
ARGUMENTS AND REBUTTAL ARGUMENTS SUPPORTING
TWO MEASURES TO ADOPT A 1.5 CENT SALES TAX**

The City Council of the City of Dunsmuir hereby resolves that _____
and _____ are authorized to submit ballot arguments and rebuttals in support
of the two measures adopting a 1.5 cent sales tax for the City.

AYES: PASSED and ADOPTED this __18th____ day of _June_, 2020 by the following vote.
NOES: _____
ABSENT: _____
ABSTAIN: _____

DATED: _____, 2020

CITY OF DUNSMUIR

Juliana Lucchesi, Mayor

ATTEST:

_____, City Clerk

APPROVED AS TO FORM:

John S. Kenny, City Attorney



| STAFF REPORT | |
|---|--------------------------------|
| RE: Authorize staff to use preliminary budget 20-22 in accounting system effective 7/1/20. | MEETING DATE: 6/18/2020 |
| SUBMITTED BY: Blake Michaelsen, Finance Director | |
| PURPOSE OF REPORT: <input type="checkbox"/> Information only <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Action Item | |

WHAT IS BEING ASKED OF THE CITY COUNCIL:

Authorize staff to use preliminary budget 20-22 presented earlier tonight in the accounting system effective July 1, 2020.

BACKGROUND/DISCUSSION:

Staff and Finance Committee and Council desire to adopt budget prior to July 1, 2020. This motion would allow staff to keep operations going should the budget not be adopted prior to July 1, 2020.

OPTIONS:

Authorize, or not, staff to use preliminary 20-22 budget effective July 1, 2020, until full budget adoption.

FISCAL IMPACT:

None Yes Budgeted Item? Yes No

Budget Adjustment Needed? Yes No If yes, amount of appropriation increase:

Affected fund(s): General Fund Water OM Fund Sewer OM Fund Other: All Funds

Comments:

SUGGESTED MOTIONS: Motion to authorize staff to use preliminary budget 20-22 presented June 18, 2020 effective July 1,2020.

Attachments: